



City of Fredericksburg  
COMMUNITY PLANNING & BUILDING DEPARTMENT  
715 Princess Anne Street / P.O. Box 7447  
Fredericksburg, VA 22404  
Telephone: (540) 372-1179

## **Application for Sidewalk Encroachment In Public Right-of-Way**

### **Sidewalk Encroachments shall be:**

1. The City of Fredericksburg regulates sidewalk encroachments to ensure public safety, to protect property values and to maintain the visual attractiveness of the City and its environment.
2. Sidewalk encroachments are not allowed without a permit.
3. Sidewalk encroachments must maintain at least a four (4) foot minimum pedestrian walkway along the sidewalk. Encroachments must allow for pedestrian movement and safety, including the ability to safely cross the street and safely enter and exit from cars and buses.
4. Sidewalk encroachment must allow clear access to curb ramps and cannot block private driveways, alleys or walkways.
5. Sidewalk encroachments must be at least five (5) feet from a curb or curb ramp when next to an ADA accessible-only parking space.
6. Sidewalk encroachments are the sole responsibility of the business owner. The business owner shall assume liability for claims, situations, or occurrences involving the sign. The City shall not be held liable for any incident arising as a result from sidewalk encroachments.
7. Sidewalk encroachments not meeting all requirements may have their license revoked and furnishings removed from the right-of-way.
8. Sidewalk encroachments in significant disrepair or that pose a hazard to pedestrians will be removed immediately.
9. Sidewalk encroachment applicants shall sign a Hold Harmless and Indemnity Agreement with the City before a permit may be issued.

### **See attached Sidewalk Encroachment Regulations.**

Name and Address of Business Owner: \_\_\_\_\_

\_\_\_\_\_

Name of Business: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address of Business: \_\_\_\_\_

**Attach a sketch or photograph of the proposed sidewalk encroachment, including its dimensions (height and width) and a tax map of the property (available from the Real Estate Division of the Commissioner of Revenue's Office, Room 107, City Hall 715 Princess Anne Street or City GIS) showing the proposed location of the sidewalk encroachment. Encroachment may be sketched on attached grid paper.**

**I fully accept and agree to comply with the above conditions. I understand that failure to comply with said conditions constitutes grounds for the City to revoke this sidewalk encroachment permit.**

Signature of Business Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_



## Hold Harmless and Indemnity Agreement

(Business Owner) \_\_\_\_\_ will defend,  
indemnify, keep and hold harmless the City of Fredericksburg, its Elected Officials,  
employees, and agents from all damages, judgments, expenses (including reasonable  
attorney fees) suffered because of the injury or the death of any person or persons, or  
because of damage to property that may arise out of, or as a consequence of sidewalk  
encroachments for (Name of Business) \_\_\_\_\_  
\_\_\_\_\_ located on City of Fredericksburg property at \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Name of Business Placing Sidewalk  
Encroachment on City Property

\_\_\_\_\_  
Business Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

*For Completion by the Community Planning & Building Department*

☐ **APPROVED**

☐ **DENIED**

Comments: \_\_\_\_\_

Zoning Administrator: \_\_\_\_\_ Date: \_\_\_\_\_

Permit # \_\_\_\_\_



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## **SIDEWALK ENCROACHMENT REGULATIONS**

### **A. General Requirements.**

- 1) Every encroachment shall be temporary in nature and designed so that it can be removed during periods of non-use.
- 2) No portion of a sidewalk encroachment may be used for any purpose other than seating for customers.
- 3) Encroachments shall comply with all applicable federal, state, and local laws and regulations, including the Americans with Disabilities Act.
- 4) Each encroachment shall physically adjoin its restaurant, business, or office. No portion of an encroachment shall project beyond its designated perimeter nor extend beyond the frontage of its adjoining restaurant or business.
- 5) The operation of an encroachment shall be exempt from off-street parking requirements set forth in the Zoning Ordinance and from the payment of water and sewer availability fees for the additional temporary seating capacity of the encroachment.

### **B. Encroachment Specifications.**

- 1) **Size:** The size, scale, proportion, and overall design of the sidewalk encroachment shall be reviewed and approved by the Zoning Administrator to ensure that the encroachment is compatible with the adjoining buildings, streetscape, and character of the zoning district. The approved size of the encroachment will be based partly on the width of the sidewalk upon which it is located and the space available for pedestrians.
- 2) **Operation / Maintenance:** The encroachment operator shall be responsible at all times for the maintenance of an attractive, clean, and safe encroachment area. Cleanup and necessary maintenance of the encroachment area is the sole responsibility of the designated encroachment operator. Trash, cigarette butts, sweepings, spills, etc. must be collected (or mopped) from the encroachment area, the adjoining curb line and any adjoining tree wells and placed into the business's private trash containers, not in public trash containers or swept into the street. Trash cleanup and sweeping must be complete within an hour of closing every day the encroachment is in use. The operator shall power wash the encroachment area annually and as otherwise directed by the City.

All moveable objects or equipment (e.g. tables, chairs, furnishings and fixtures) required to operate the encroachment shall be removed from the encroachment area and stored out of public view at closing time each day and during off-season or when the encroachment is not in operation for more than a five-day period.

- 3) **Floor:** Only the existing sidewalk surface is to be used for placement of removable encroachment furnishings.
- 4) **Furnishings:** The furnishings of the encroachment shall consist of temporary fixtures and decorative accessories. No permanent fixtures or improvements shall be permitted for an encroachment. Furnishings are subject to the following design guidelines:
  - a. *Furnishings Allowed:* Encroachment furnishings are limited to a table with an area of less than two square feet, two chairs, or one bench.
  - b. *Furnishings Character:* Furnishings shall be made of a durable quality exterior commercial grade material and be sturdy enough to withstand weather. Furnishings shall be maintained in good visual appearance, without deterioration, dents, rust, corrosion, chipped or peeling paint.
  - c. *Furnishings Color / Design:* All tables and chairs shall be of a visually similar design. Furnishings shall be aesthetically compatible with an enclosure where applicable.
- 5) **Refuse / Storage:** No overnight storage of any kind is permitted within an encroachment (including trash or refuse).
- 6) **Clear Path:** There shall be a distance of at least four (4) feet from obstruction between the encroachment and any impediments including street lights, trash cans or street trees. Along the clear path, there must be a five foot by five foot space clear from obstruction at a minimum every 200 feet.

## C. Licenses.

- 1) The Zoning Administrator shall have sole discretion to issue a License to the encroachment operator. The License shall contain such terms and conditions as the Zoning Administrator determines are necessary to protect the public health, safety and welfare. The Zoning Administrator shall also have the authority to waive or modify any of the specifications and requirements set forth in sections 8-1.C and 8-1.D above.
- 2) The License, as issued and signed by the Zoning Administrator, shall contain a statement, executed by the Licensee, that they agree to indemnify and hold harmless the City, its agents, and employees from any and all losses, damages, expenses and claims arising out of the Licensee's design, construction, operation and maintenance of the sidewalk encroachment.

- 3) The initial License issued by the Zoning Administrator shall be valid for one (1) year from the date of issuance. The License period shall start annually on March 1. Starting in 2016, existing licenses will expire on March 1 unless renewed.
- 4) The Zoning Administrator may re-issue licenses for periods up to three (3) years, with such modifications as the Zoning Administrator deems appropriate. If any application for renewal involves exterior alterations to the restaurant building, the applicant shall submit an application to the ARB prior to re-issuance of the License.
- 5) There shall be no fee for sidewalk encroachments.

**D. Enforcement; Suspension and Termination.**

- 1) The Zoning Administrator shall have the authority to inspect sidewalk encroachments at any time and to take all necessary steps to enforce the provisions of this section. In the event that the Zoning Administrator discovers a violation of the Operation/Maintenance standards of this policy, any other violation, or conflict with pedestrian or automobile traffic which, in his opinion requires an immediate response, the Zoning Administrator shall contact the operator using the point-of-contact information provided, and require compliance within two hours of contact. In the event that the Zoning Administrator suspects that a sidewalk encroachment operator has failed to comply with any other provision of this section, any provision of its License, or any other provision of law, the Zoning Administrator shall provide the operator with a written Notice of Violation, detailing the violation(s) and giving the Licensee a minimum of forty-eight (48) hours to remedy such violation(s).
- 2) If an encroachment operator fails to correct any violation specified in a Notice of Violation within the time period set forth therein, the Zoning Administrator shall have the right to suspend or revoke the operator's License for cause with at least two (2) weeks prior written notice to the Licensee.
- 3) The Zoning Administrator shall have the right to terminate any License for the convenience of the City, upon two (2) weeks prior written notice to the operator.
- 4) The Zoning Administrator, the Director of Public Works, the Chief of Police, or the Fire Marshall shall have the authority to require all Licensees to suspend or limit encroachment operations or to relocate, remove or alter all or part of the encroachment structure or improvements, either temporarily or permanently, in order to facilitate or allow City operations, maintenance, or construction upon public property.
- 5) In the event of an emergency, the Zoning Administrator, the Director of Public Works, the Chief of Police, or the Fire Marshall shall have the authority to require the immediate suspension of operations of a sidewalk encroachment and/or the removal of all physical improvements constituting the encroachment structure.